Are Sanctions Just? The Problematic Case of Iraq

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When seeking to uphold the norms of justice, the international community often utilizes the instrument of economic sanctions. Since the end of the Cold War, sanctions have become a frequent instrument of United Nations authority. The U.N. Security Council has imposed partial or comprehensive multilateral sanctions against Iraq (1990), the former Yugoslavia (1991), Libya (1992), Liberia (1992), Somalia (1992), Haiti (1993), parts of Angola (1993), Rwanda (1994), Sudan (1996) and Sierra Leone (1997). Although sanctions traditionally have been considered tools of international policy, many of the recent uses of the instrument have involved *intra*national disputes. Nations have shown an increased willingness to accept U.N. action to prevent internal violence, promote human rights, restore democracy and, as in the case of Iraq, enforce disarmament.[1]

For those committed to a more democratic system of global governance and the balancing of international power, the role of sanctions as an instrument of the mighty is troubling.

Although often intended to protect human rights, sanctions may contribute to the further deterioration of the human rights situation in a target nation.[2] Those most likely to suffer from general trade sanctions are the vulnerable: women, children and those heavily dependent on the societal "safety net" provided by

[1] John Stremlau, *Sharpening International Sanctions: Toward a Stronger Role for the United Nations*, Report of the Carnegie Commission (Washington, DC: Carnegie Commission on Preventing Deadly Conflict, November 1996) p. 17.

[2] See George A. Lopez and David Cortright, "Economic Sanctions and Human Rights: Part of the Problem, or Part of the Solution?" *International Journal of Human Rights*, 1, no. 2 (Fall 1998) pp. 1-25.

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international relief agencies. These concerns have led some to question whether the negative humanitarian consequences of sanctions sometimes outweigh their intended political benefits.[3] In his January 1995 report, *Supplement to an Agenda for Peace*, former U.N. Secretary-General Boutros Boutros-Ghali asked "whether suffering inflicted on vulnerable groups in the target country is a legitimate means of exerting pressure on political leaders."[4] Current U.N. Secretary-General Kofi Annan has also expressed concern that "the hardship imposed on the civilian population is greatly disproportionate to the likely impact of the sanctions on the behavior of the protagonists."[5]

These concerns about sanctions point to three different areas of contention regarding sanctions and their role in enhancing global justice:

- The authority of sanctions: their imposition as a means of international enforcement, implemented by the decisions of the Security Council under the authority of the U.N. Charter;
- The effectiveness of sanctions: their capacity and limitations as instruments for attaining intended objectives;
- The morality of sanctions: their humanitarian impact on innocent, disempowered people within targeted states.

In this essay we explore each of these areas. We begin by outlining the differing views about the authority, effectiveness and morality of sanctions that make their use so contentious. We emphasize the importance of mixing sanctions with incentives as part of a carrot-and-stick diplomacy designed to persuade rather than punish. We then examine the prolonged sanctions against Iraq as the crucible in which each of these tensions has been most sharply magnified. We conclude by offering an alternative strategy for U.N. policy in Iraq that we believe better serves the competing claims of justice in this case.

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3 See Thomas G. Weiss et al., eds., *Political Gain and Civilian Pain: The Humanitarian Impact of Economic Sanctions* (Lanham, MD: Rowman & Littlefield, 1997) especially chaps. 1 and 7.

4 Boutros Boutros-Ghali, *Supplement to an Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, U.N. Doc. A/50/60 (New York: United Nations, 3 January 1995) pp. 17-18.

5 Kofi Annan, *The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa, Secretary-General's Report to the United Nations Security Council* (New York: United Nations, 16 April 1998) p. 25.

The Contending Views of the Justice of Sanctions

A principle of just authority would claim that sanctions must be multilateral and have the approval of the United Nations. Under this definition, the only sanctions that could be considered just (or even be candidates for ethical assessment) would be those authorized by the Security Council under the principles of international law and the U.N. Charter. Unilateral sanctions such as the U.S. embargo against Cuba would be dismissed as illegitimate. Regional sanctions could be judged on a case-by-case basis according to their universality and compliance with international norms. For many, the legitimacy of U.N.-imposed sanctions flows from their role as a nonmilitary means of enforcing international norms. Sanctions can serve as a middle ground between mere diplomatic protest and ultimate military force. As such, they offer the United Nations a means of addressing threats to peace without resorting to the use of armed force. In this sense, they are an important element in establishing the authority of the United Nations to resolve conflict and address human rights concerns in the post–Cold War era. The United Nations imposes sanctions in response to violations of general norms, not to gain an advantage over the target. Such sanctions have "right intention" and are meant to be lifted as soon as the target complies with the mandated norms.

The authority argument, however, fails to acknowledge the limitations of the actual functioning of the U.N. system. These limitations stem, in part, from the design of the Security Council, which gives disproportionate authority to the permanent members. They can either block important decisions, as was done during the Cold War, or "hijack" the proceedings of the council to serve narrow national purposes, as has been the case with sanctions against Iraq.[6] This dilemma of power, if we can call it that, is exacerbated when economic sanctions are imposed. Sanctions almost always involve powerful states imposing punitive measures on weaker states. The greater the differential in power, the more effective the sanctions. By their very nature, sanctions are a function of—and reinforce—the disparity in power between large and small states.

For those committed to a more democratic system of global governance and the balancing of international power, the role of

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[6] See Lisa Martin, *Coercive Cooperation: Explaining Multilateral Economic Sanctions* (Princeton: Princeton University Press, 1992). Martin's analysis confirms the role of the United States in pressuring other states to cooperate with sanctions.

sanctions as an instrument of the mighty is troubling. This is especially true when the United States labels certain countries "rogue states" and subjects them to unilateral punitive pressure. Such policies have little or nothing to do with global justice and the enforcement of international norms. Unethical results may also occur when the international body imposing sanctions does not provide or properly administer humanitarian exemptions and other measures to protect the innocent. Justice is also undermined when sanctions are the main policy toward a target country, rather than a flexible component of a wider diplomatic strategy that includes carrots as well as sticks, and that seeks to persuade rather than punish.

Much of the debate about the justness of sanctions hinges on an assessment of their effectiveness in achieving stated purposes. A common view is that sanctions are an ineffective bromide, intended to placate public demands for action but incapable of achieving real results.[7] According to a major empirical study in the field by the Institute for International Economics (IIE), sanctions have an overall success rate of 34 percent; that is, sanctions made a significant contribution toward achieving the purposes for which they were imposed in one-third of the 116 cases examined.[8] The IIE study concluded, however, that sanctions by themselves are seldom able to achieve major objectives, such as rolling back aggression or forcing a change in the leadership of a regime.[9]

On the other hand, sanctions can be quite effective in reinforcing international norms, signaling disapproval of objectionable behavior and deterring future abuses. The probability of their success depends on the goals they are intended to serve and the flexibility with which they are applied. Sanctions are most effective when combined with incentives, as part of a carrot-and-stick diplomacy designed to resolve conflict and bring about a negotiated solution. This strategy requires that the imposing authority establish clear and consistent standards for the lifting of sanctions. This logic of the instrument also demands that steps toward compliance by the target be rewarded with an

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7 See, for example, Jim Hoagland, "The Sanctions Bromide," *Washington Post*, 12 November 1993, p. A25.

8 Gary C. Hufbauer, Jeffrey J. Schott and Kimberly Ann Elliott, *Economic Sanctions Reconsidered: History and Current Policies*, 2d ed. (Washington, DC: Institute for International Economics, 1990) p. 94.

9 Some analysts argue that even the modest success rates reported in the IIE study are exaggerated. See Robert A. Pape, "Why Economic Sanctions Do Not Work," *International Security*, 22, no. 2 (Fall 1997) pp. 90-136.

easing of coercive pressure. This was the case in the former Yugoslavia, where actions by the Milosevic regime in 1994 to isolate its Bosnian Serb allies were rewarded by a partial easing of Security Council sanctions, which in turn helped to encourage Belgrade's commitment to negotiating an end to the Bosnian war. In Iraq, by contrast, the Security Council has adopted an unyielding posture and refused to reciprocate Baghdad's occasional concessions, as we discuss below.

The most contentious and difficult question concerning the justice of sanctions is their humanitarian impact. The severe economic and social hardships that can result from sanctions have been a cause of intense controversy and debate. Damage to the social safety net has been most thoroughly documented in the cases of Iraq and Haiti, but occur in nearly all countries undergoing economic sanctions, revealing the disturbing irony that has developed with their use.[10] Considered an alternative to the use of military force, sanctions may still cause economic and social hardships equivalent to those caused by war. In some cases, the negative humanitarian consequences of sanctions arguably outweigh whatever political objectives may have been accomplished. Secretary-General Annan has written that economic sanctions are "too often a blunt instrument," and has called for measures to mitigate their adverse humanitarian impacts.[11] He has also noted that sanctions pose a dilemma for the United Nation's dual mandate to preserve peace and protect human needs: "Humanitarian and human rights policy goals cannot easily be reconciled with those of a sanctions regime."[12]

Some degree of civilian pain is inevitable with the application of sanctions and does not make every use of the instrument unjust. International law professor Lori Fisler Damrosch argues that, although sanctions impose hardships on vulnerable populations, they may be ethically justifiable if carried out for a higher political and moral purpose such as halting aggression or preventing repression. However, the sanctions regime must not cause severe social and economic hardships that drive living standards below

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[10] For a detailed assessment of the impact of sanctions on Haiti, see Elizabeth D. Gibbons, "Violating Human Rights in Haiti: An Anatomy of Sanctions," Washington Paper series (Washington, DC: Center for Strategic and International Studies and Praeger Press, forthcoming).

[11] Annan (16 April 1998) p. 25.

[12] Kofi Annan, *Annual Report of the Secretary-General on the Work of the Organization (1998)*, U.N. Doc. A/53/1 (New York: United Nations, 27 August 1998) p. 64.

subsistence levels.[13] From a just-war perspective, theology professor Drew Christiansen and policy analyst for the U.S. Catholic Conference Gerard Powers argue that, while a certain level of civilian hardship is unavoidable, sanctions must not deprive people of the basic right to life and survival. Christiansen and Powers also note that nations imposing sanctions have a responsibility to provide humanitarian assistance to vulnerable populations.[14]

Responsibility for humanitarian impacts rests not only with the sanctioning authorities but also with the leaders of the targeted regime. These leaders cause the imposition of sanctions through their violation of international norms. Moreover, they control much of the negative humanitarian impacts of sanctions through their allocation of scarce resources (often to protect their power base rather than to assist the general population) and through decisions about whether or not to comply with U.N. demands. These realities, however, do not exonerate sanctioning authorities of ethical responsibility. If decisionmakers in war are bound by the moral criteria of the just-war doctrine, those imposing sanctions must be similarly bound by such constraints. The principle of civilian immunity applies no less in the imposition of sanctions than in the conduct of war. This suggests, as the ethicists argue, that sanctioning authorities bear the fundamental responsibility for mitigating humanitarian impacts within target countries, and for assuring that the measures enacted to uphold international norms do not cause suffering disproportionate to the ends served.

The Humanitarian Crisis in Iraq and the Role of Sanctions

Each of the contending perspectives relating to the authority, effectiveness and moral legitimacy of sanctions is reflected in the controversy over the continuing U.N. sanctions against Iraq. At stake on one level is the authority of the Security Council, acting under Resolution 687, to ensure compliance with the Gulf War cease-fire provisions and the inspection and elimination of Iraqi weapons of mass destruction. Also at stake is the viability of the sanctions instrument, which has been imposed in this case with

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[13] Lori Fisler Damrosch, "The Civilian Impact of Economic Sanctions," in *Enforcing Restraint: Collective Intervention in Internal Conflicts*, ed. Lori Fisler Damrosch (New York: Council on Foreign Relations, 1993) pp. 281-282.

[14] Drew Christiansen, S.J., and Gerard Powers, "Economic Sanctions and the Just-War Doctrine," in *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?* ed. David Cortright and George Lopez (Boulder, CO: Westview Press, 1995).

unprecedented severity. Never before has a country faced such prolonged economic strangulation, with the value of lost revenues from prohibited oil exports amounting to more than $130 billion,[15] industrial output dropping by 50 percent, inflation rising by more than 5,000 percent[16] and per capita income plummeting to levels equivalent to those found in the poorest nations.[17] Most critically at stake is the survival of the Iraqi people, especially the most vulnerable, who suffer doubly under the oppression of a totalitarian dictatorship and the grueling consequences of one of the harshest economic blockades in history.

The social impacts of the Iraq crisis reveal a shocking human tragedy. Hundreds of thousands of people have died prematurely from the health disaster that has swept Iraq in the wake of war and during more than eight years of comprehensive sanctions.[18] The United Nations Children's Fund (UNICEF) reported in 1996 that 4,500 children under the age of five were dying every month in Iraq from hunger and disease.[19] The dismal picture of Iraqi

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15 Milton Leitenberg, interview by author, 12 December 1997. Leitenberg based his estimates on figures for lost oil revenues used by former UNSCOM Director Rolf Ekeus. See also Richard Haass, "Time to Revisit Sanctions," *Financial Times*, 12 January 1998, p. 14. Haass has estimated Iraq's lost oil revenues at $100 billion.

16 Anthony H. Cordesman and Ahmed S. Hashim, *Iraq: Sanctions and Beyond* (Boulder, CO: Westview Press, 1997) pp. 140-141.

17 *ibid.*, p. 127.

18 More than 30 major studies have been conducted on the impact of war and the continuing economic sanctions on the people of Iraq, including major reports by the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), the Food and Agriculture Organization (FAO), the Harvard Study Team and the Center for Economic and Social Rights in New York. In 1997, extensive health and nutritional surveys were conducted by UNICEF and a joint FAO/WFP team. One of the most alarming reports appeared in a 2 December 1995 letter to *Lancet*, the journal of the British Medical Association, in which members of a 1995 FAO study team asserted that sanctions were responsible for the deaths of 567,000 Iraqi children. A *New York Times* article picked up the report and flatly declared, "Iraqi Sanctions Kill Children." See Barbara Crossette, "Iraqi Sanctions Kill Children, U.N. Reports," *New York Times*, 1 December 1995, p. A6. The story was also featured in a May 1996 segment of *60 Minutes*, an investigative news program of CBS television. A subsequent 11 October 1997 report in *Lancet* disavowed these findings, however, noting that a follow-up mission employing many of the same survey methods found infant and child mortality rates "several-fold lower than the estimate for 1995...for unknown reasons." Despite uncertainties and exaggerations about mortality figures in Iraq, there is no doubt that sanctions have caused severe health and nutritional problems. A forthcoming study commissioned by the Fourth Freedom Forum and written by Richard Garfield, "Changes in Mortality in Iraq in the 1990s: Assessing the Impact of Economic Sanctions," estimates total excess deaths among those under five years of age at more than 200,000. This is an appalling number, but it is less than half the most widely cited numbers for child deaths.

19 UNICEF Press Release, "Disastrous Situation of Children in Iraq," (New York: UNICEF, 4 October 1996).

social conditions was summarized in a November 1997 report to the Security Council by Secretary-General Annan:

> United Nations observers regularly report an exceptionally serious deterioration in the health infrastructure: a high infant mortality rate and high rates of morbidity and mortality in general, poor and inadequate storage conditions for supplies, an unreliable supply of electricity and back-up generators, faulty or non-functioning air-conditioning, defective cold-storage, interrupted water supplies, broken/leaking sewage systems and non-functioning hospital waste disposal systems.[20]

Eric Hoskins and other investigators have documented rising rates of preventable disease caused by malnutrition and unsanitary conditions.[21] Cholera, typhoid and other rare diseases have reemerged and spread alarmingly. The wasting and stunting of children have become widespread. As the Secretary-General's report observed: "The rate of acute malnutrition or wasting among children up to five years old was 11 percent, chronic malnutrition, which results in stunting, affected 31 percent, and 26 percent were underweight."[22] Annan concluded: "One-third of children under five years of age and one-quarter of men and women under 26 years of age are malnourished."[23] These figures depict an appalling humanitarian tragedy. Even if sanctions were lifted tomorrow, the lingering effects of stunted human development and social devastation would continue to cause suffering for a generation or more.

The only relief from sanctions has been the oil-for-food program. This unprecedented relief effort is an attempt by the Security Council to ameliorate the humanitarian crisis in Iraq. Originally approved in Security Council Resolution 706 in August 1991, but rejected by Iraq, it was subsequently reauthorized in Resolution 986 in April 1995 and finally approved by Iraq a year later. Under this program, Iraq is permitted oil sales up to $5.2 billion every six months, with approximately one-third of the proceeds earmarked for war reparations and the cost of the U.N.

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[20] Kofi Annan, *Report of the Secretary-General Pursuant to Paragraph Three of Resolution 1111 (1997)* (New York: United Nations, 28 November 1997) p. 14.

[21] Eric Hoskins, "The Humanitarian Impacts of Economic Sanctions and War in Iraq," in Weiss et al., pp. 91-147.

[22] Annan (28 November 1997), p. 14.

[23] *ibid.*, p. 16.

operations in Iraq, and the remaining two-thirds available for the purchase and delivery of food and medical supplies. The first deliveries of humanitarian assistance began in March 1997. To date the results of the operation have been limited.[24] Annan's report found little improvement in food supply conditions and the continuation of a "serious nutritional and health situation."[25] A subsequent September 1998 report noted some improvement in the availability of drugs, the quality of water and the health conditions, but observed that daily food rations remain below target.[26]

Assessing Responsibility

Officials of the U.S. government and its allies on the Security Council acknowledge that sanctions have caused severe hardships in Iraq, but they blame the ensuing crisis on the government in Baghdad. We do not believe that the United States and its Security Council allies can escape responsibility so easily, as we explain below, but we agree that the government of Iraq does indeed bear the major responsibility for the crisis. Baghdad not only initiated the Gulf crisis with its invasion of Kuwait, but it has repeatedly acted in the intervening years to prevent a resolution of the confrontation and thus prolonged the suffering of its people. The government could have averted much of the humanitarian crisis at any point during the past eight years by complying with the terms of Resolution 687 and permitting full inspection of its weapons programs. By refusing to do so, Baghdad placed a greater priority on preserving its military might and political power base than on preventing the further deterioration of Iraqi society.

Evidence of Baghdad's disregard for its own people can be seen in its spending choices. Despite the sanctions, Iraq has not been without financial resources. It has retained access to hard currency reserves and overseas financial holdings, despite international efforts to seize these assets. It has managed to earn export revenues through a small but lucrative illicit oil trade via Turkey and Iran. Limited oil sales have also been allowed through Jordan. U.S.

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24 FAO/WFP, *Special Report: FAO/WFP Food Supply and Nutrition Assessment Mission to Iraq* (Rome: FAO, 3 October 1997) p. 1, http://www.fao.org/giews/english/alertes/srirq997.htm (5 February 1999).

25 Annan (28 November 1997), p. 17.

26 Kofi Annan, *Report of the Secretary-General Pursuant to Paragraph 10 of Security Council Resolution 1153 (1998)*, U.N. Doc. S/1998/823 (New York: United Nations, 1 September 1998) pp. 24-26, 28.

officials have estimated Iraqi annual earnings from these sales at $700 million to $800 million.[27] The Iraqi government could have used the limited, but nonetheless significant, resources at its disposal to take more vigorous action to address the needs of its people and relieve humanitarian suffering. Instead, it has marshaled its resources for such purposes as constructing dozens of "palaces," erecting monuments glorifying its leader and attempting to rebuild its vast military apparatus (including efforts to smuggle military technology and circumvent restrictions on weapons of mass destruction).[28] Baghdad has also undertaken a massive civil engineering project and a campaign of military oppression against the marsh Arabs of southern Iraq.[29] The tragic irony is that while Basra and other Iraqi cities still lack adequate water piping and sewage treatment facilities, the government has found the resources to drain the marshes and build a 350-mile river channel through the southern region.

Most significant have been Iraq's rejection of the United Nation's oil-for-food program and its obstruction of the humanitarian assistance operation once it got underway. Iraqi officials have opposed the oil-for-food program as overly intrusive and a violation of national sovereignty. They also reject the program because they see it as providing the basis for the United Nations to maintain sanctions indefinitely. The Iraqis insist that the only proper humanitarian response is to lift sanctions and allow the country to repair its oil industry, resume trade and rebuild its shattered economy and society. But if the oil-for-food program had been accepted when first proposed in 1991, much of the suffering of the Iraqi people in the intervening years might have been avoided. Furthermore, if Resolution 986 had been implemented immediately in 1995 rather than after a delay of nearly two years, humanitarian relief would have arrived sooner.[30]

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27 Youssef M. Ibrahim, "Iraq Said to Sell Oil in Secret Plan to Skirt U.N. Ban," *New York Times*, 16 February 1995, p. A1; and Patrick Clawson, "How Saddam Hussein Survived Economic Sanctions, 1990-93," McNair Paper 22 (Washington, DC: Institute for National Strategic Studies, National Defense University, August 1993).

28 House Committee on International Relations, *U.S. Policy Toward Iraq: Hearing Before the Committee on International Relations*, 104th Cong., 2d sess., 28 March 1996, pp. 40-45.

29 Kenneth Katzman, "Iraq: Marsh Arabs and U.S. Policy," Report to Congress by the Congressional Research Service (Washington, DC: Library of Congress, 13 April 1994).

30 The government continued to impede the program, even after it began, by interrupting oil sales and delaying the submission of distribution and pricing plans. From June through August 1997 Iraq halted all oil exports, creating a substantial shortfall in revenues for humanitarian relief. According to the Secretary-General, Iraq's decision to forego oil deliveries during this period was the most important factor in slowing

By agreeing to these measures, Baghdad could have avoided much of the humanitarian crisis. Its failure to do so was a cruel act of human rights abuse that shifted much of the responsibility for the crisis squarely onto its own shoulders.[31]

Given Baghdad's opposition to the oil-for-food program, it is not surprising that this project has been unable to relieve the humanitarian crisis in Iraq; nor is it likely to do so in the future. This crisis is simply too vast and the reluctance of the Iraqi government too great to permit the kind of comprehensive, coordinated effort needed to overcome the effects of eight years of sanctions. The Iraqi government has adopted a strategy for resisting U.N. pressure that redirects the pain of sanctions onto the most vulnerable and allows its people to die as a means of generating sympathy for the lifting of sanctions. The United Nations has been put in an untenable situation. To offer an analogy with warfare, it is as if the opposing army has brought children to the front lines and allowed them to be massacred. Would a military force facing such a diabolical maneuver be justified in attacking? Is the Security Council justified in maintaining comprehensive sanctions against an opponent who is willing to make innocent children the primary victim? A policy designed to exert pressure on an aggressor regime has been perverted by that regime into a virtual attack on innocents. It may be correct to say that responsibility for the humanitarian suffering rests with Saddam Hussein, but this does not solve the

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the pace of aid deliveries. See Kofi Annan, *Report of the Secretary-General Pursuant to Paragraph 7 of Resolution 1143 (1997)*, U.N. Doc. S/1998/90 (New York: United Nations, 1 February 1998) p. 5. When the relief program was extended in December 1997 Baghdad again failed to provide the required distribution plan and interrupted oil exports for a month. The Secretary-General's September 1998 report on the program noted additional delays resulting from the failure of the Iraqi government to submit simplified pricing mechanisms that would expedite the delivery of supplies. See Annan (1 September 1998), p. 8.

31 These and other incidents remind us that the Iraqi government is one of the most abusive on earth. The February 1997 report of the U.N. Special Rapporteur of the Commission on Human Rights describes Iraq as "a dictatorial, totalitarian state which allows no political dissent." The corruption and criminality of the regime have rendered "the whole population subject to the arbitrary, widespread, and self-centered interests of a privileged class of government officials and Baath party leaders." Recent abuses by the regime include "mass arrests followed by many executions" reportedly numbering in the thousands in response to an assassination attempt against Saddam Hussein's eldest son, Uday, in December 1996. The U.N. Rapporteur also reports more than 16,000 unresolved disappearances, which gives Iraq "decidedly the worst record in the world" in this grisly category. See U.N. Commission on Human Rights, *Report on the Situation of Human Rights in Iraq, Submitted by the Special Rapporteur of the Commission on Human Rights, Mr. Max van der Stoel, Pursuant to Commission Resolution 72 (1996)* (Geneva: UNHCHR, 21 February 1997) pp. 3-4.

practical problem of overcoming injustice. The oil-for-food program may be a sincere attempt to address the injustice caused by sanctions in Iraq, but it is not a sufficient answer and does not acquit the members of the Security Council of the obligation to take further steps to prevent the suffering of innocent civilians. Precisely because it is known that the Iraqi government is victimizing its own population, the United Nations must adjust its policies and find a different approach to achieving its objectives in Iraq.

Misuse of the Sanctions Instrument

The official purpose of the continuing U.N. sanctions is to gain Iraqi compliance with the cease-fire provisions of the Gulf War, whereby Iraq has to eliminate all weapons of mass destruction. Although Iraq has stubbornly refused to comply fully and has repeatedly resisted U.N. weapons inspections by the United Nations Special Commission (UNSCOM), some progress toward realizing U.N. objectives has been achieved. Baghdad has made several significant gestures of compliance, however reluctant and grudging they may have been. In November 1993, Baghdad allowed UNSCOM to install permanent U.N. monitoring facilities on Iraqi territory to verify the destruction of weapons of mass destruction. The equipment and personnel were installed in early 1994. This was an important breakthrough that enabled UNSCOM to establish baseline data on Iraq's weapons capabilities and to monitor future compliance with the weapons elimination program. A year later, Baghdad accepted the findings of the U.N. Boundary Demarcation Commission and declared its irrevocable and unqualified recognition of the sovereignty of Kuwait and the redrawn international borders.[32] This decision was widely seen as an encouraging development and was described by the Security Council as "a significant step in the direction towards implementation of the relevant Security Council resolutions."[33]

Sanctions have also contributed to the progress of U.N. weapons inspections. Although Baghdad has frequently obstructed the inspections process, substantial advances have been achieved in eliminating Iraq's weapons programs. U.S. Secretary of State

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[32] United Nations, *The United Nations and the Iraq-Kuwait Conflict, 1990-1996*, Blue Books series, 9 (New York: United Nations Department of Public Information, 1996) pp. 54-55.

[33] *ibid.*

Madeleine Albright admitted as much in March 1997 when she called the progress recorded to that date "stunning."[34] Over the last few years, UNSCOM has succeeded in eliminating much of Iraq's nuclear, ballistic missile and chemical weapons capability. The greatest progress has been achieved in the nuclear realm. In November 1997 UNSCOM reported that "there are no indications that any weapon-usable nuclear materials remain in Iraq," and no "evidence in Iraq of prohibited materials, equipment or activities."[35] While concerns remain about gaps in the information Baghdad has provided,[36] most observers consider the Iraqi nuclear threat effectively neutralized. Iraq's ballistic missiles have been largely eliminated as well. Of the 819 Scud missiles known to exist at the start of the Gulf War, UNSCOM has been able to account for 817.[37] Much of Iraq's chemical weapons capability has also been located and destroyed. UNSCOM reported "significant progress" in this area and observed that "considerable quantities of chemical weapons, their components and chemical weapons-related equipment have been destroyed."[38] Much less headway has been achieved in locating and eliminating Iraq's biological weapons capability. A panel of international experts, convened at Baghdad's request, reported in April 1998 that Iraq's disclosures on biological weapons have been "incomplete, inadequate and technically flawed."[39] The continuing search for evidence of nerve gas and germ warfare capability is at the heart of the continuing standoff between Iraq and the United Nations.[40]

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34 Madeleine K. Albright, "Preserving Principle and Safeguarding Stability United States Policy Toward Iraq," Speech at Georgetown University (Washington, DC: 26 March 1997).

35 UNSCOM, *Letter Dated 22 November 1997 From the Executive Chairman of the Special Commission* [Richard Butler] *Established by the Secretary-General Pursuant to Paragraph 9(b)(i) of Security Council Resolution 687 (1991) Addressed to the President of the Security Council*, U.N. Doc. S/1997/922 (New York: United Nations, 24 November 1997) p. 3.

36 Steven Dolley, "Iraq and the Bomb: The Nuclear Threat Continues," working paper of the Nuclear Control Institute (Washington, DC: 19 February 1998), http://www.nci.org/ib21998.htm (5 February 1999).

37 Kofi Annan, *Report of the Secretary-General on the Activities of the Special Commission Established Pursuant to Paragraph Nine(b)(i) of Resolution 687 (1991)*, U.N. Doc. S/1997/774 (New York: United Nations, 6 October 1997) p. 7.

38 UNSCOM (24 November 1997) p. 4.

39 UNSCOM, *Report of the Executive Chairman of the Special Commission*, U.N. Doc. S/1998/308 (New York: United Nations, 8 April 1998) p. 17; see also UNSCOM, *Report of the United Nations Special Commission's Team to the Technical Evaluation Meeting on the Proscribed Biological Warfare Programme*, U.N. Doc. S/1998/308 (New York: United Nations, 8 April 1998).

40 A fuller assessment of UNSCOM achievements is available in George A. Lopez and David Cortright, "Pain and Promise," *Bulletin of Atomic Scientists*, 54, no. 3 (May/

Sanctions have played a role in UNSCOM's partial success. According to former UNSCOM Director Rolf Ekeus, sanctions were "very important" in pressuring Iraqi officials to accept U.N. weapons inspections.[41] While it is impossible to segregate the role of economic sanctions from that of military pressure and other factors influencing the Iraqi government, it is safe to say that the continuing weight of sanctions has had at least some impact in pressuring Baghdad to accept some of the weapons inspections provisions of Resolution 687.

Russia and other members of the Security Council have urged an easing of sanctions pressure in response to these partial gains. They propose a gradual lifting of sanctions in recognition of the progress on weapons inspections and as a means of encouraging further Iraqi cooperation. The idea would be to separate the different missions of UNSCOM to allow certification of compliance in the areas where the greatest advances have been achieved. The Security Council could thereby use the progress achieved in limiting nuclear weapons and ballistic missiles as a justification for partially lifting sanctions and as an incentive for greater Iraqi compliance. UNSCOM Chairman Richard Butler and Secretary-General Annan have also suggested a road map or timetable for ending U.N. weapons inspections in which sanctions would be lifted on a fixed timeline in exchange for Iraqi compliance. These proposals offer promise for a negotiated resolution of the Iraqi crisis.

We agree that a quid pro quo response from the Security Council is warranted. While Iraq has not fully complied with U.N. resolutions, its partial concessions and the progress achieved to date on inspections merit an easing of coercive pressure. The effective use of sanctions requires the reciprocation of partial concessions. An easing of economic pressure in response to partial compliance can produce further concessions. In part, this is a recognition of the limits of what sanctions realistically can be expected to accomplish.[42] As noted earlier, sanctions can help to encourage a process of dialogue and negotiation, but they cannot by themselves remove a targeted regime or force a drastic change

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June 1998) pp. 39-43.

41 Speech by Rolf Ekeus, Conference on Nuclear Nonproliferation and the Millennium: Prospects and Initiatives (Washington, DC: Carnegie Endowment for International Peace, 13 February 1996).

42 See George A. Lopez and David Cortright, "The Sanctions Era: An Alternative to Military Intervention?" *Fletcher Forum of World Affairs*, 19, no. 2 (May 1995); see also Lopez and Cortright, "Economic Sanctions and Human Rights" (Fall 1998).

in policy. Sanctions should not be used in a purely punitive manner to starve an opponent into submission. Sanctions work best in combination with incentives and other forms of external influence as part of a carrot-and-stick diplomacy designed to resolve a conflict through negotiation.[43] Sanctions must be a strategic component of a larger coercive policy, not the policy itself. As Richard Haass, director of foreign policy studies at the Brookings Institution, phrased it, "sanctions are a means to an end, not an end in themselves."[44] In the Iraq case, however, there has been no reciprocation of Baghdad's concessions, and thus no incentive for the government to take further steps toward compliance.

The Security Council's refusal to reciprocate Iraq's partial concessions suggests that the purpose of the continuing sanctions, at least for the United States, is no longer (or, perhaps, was never merely) to enforce Resolution 687. The political goalposts have been moved. Resolution 687 states explicitly that the ban on Iraqi exports will be lifted when Iraq complies with U.N. weapons inspections, but Albright declared in March 1997 that the United States does not accept this view.[45] The larger objective has become the political and military containment of the regime of Saddam Hussein. This is implicit in the many statements from U.S. officials that the sanctions will not be lifted until Saddam Hussein is removed from power. In November 1997 President Bill Clinton remarked that "sanctions will be there until the end of time, or as long as [Hussein] lasts."[46] While many U.N. member states disagree with this view, they have been unwilling or unable to prevent the United States and Great Britain from dominating U.N. policy toward Iraq and from maintaining a rigid and unyielding posture regarding the continuation of sanctions.

Under these conditions, sanctions have lost the carrot-and-stick leverage so crucial to their effectiveness. If Baghdad's conciliatory gestures had been reciprocated earlier, a different political dynamic might have evolved between the United Nations and Iraq. The lack of such reciprocation has meant, from Iraq's perspective, that the government has little to gain from further steps toward compliance. Baghdad has relied instead on strategies

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43 See David Cortright and George A. Lopez, "Carrots, Sticks, and Cooperation: Economic Tools of Statecraft," in *Cases and Strategies for Preventive Action*, ed. Barnett R. Rubin (New York: Twentieth Century Fund, 1998) pp. 113-134.

44 Haass.

45 See Albright.

46 Barbara Crossette, "For Iraq, A Doghouse with Many Rooms," *New York Times*, 23 November 1997, p. 4.

of obstruction and confrontation, attempting to wear down U.N. resolve and widen the political differences within the Security Council. In September 1998, following further Iraqi obstruction of weapons inspections, the Security Council voted to suspend its periodic reviews of sanctions, leaving no option for the easing of pressure and thus deepened the stalemate. The result has been a persistent political impasse and the continuation of the humanitarian crisis. Saddam Hussein may be the target of these measures, but it is the human shield of innocent and vulnerable people in Iraq who continue to bear the brunt of the sanctions.

Conclusion: Toward More Just and More Effective Sanctions

The demands of justice require a new policy toward Iraq and a new U.N. strategy for the use of sanctions in the future. The current policy toward Iraq inflicts unacceptably high humanitarian costs. It also carries the constant risk of military crisis, as the United States reacts to Iraqi obstruction with threats of military force. In February and November 1998 the United States came perilously close to unleashing air and missile strikes against Baghdad, and in December, Washington and London finally launched an intensive four-day bombing campaign against Iraq. The United States and the United Nations have stumbled from crisis to crisis and seem to face only grim choices: maintaining comprehensive sanctions that perpetuate the suffering and death of children, or threatening military strikes that could kill hundreds of civilians and split the fragile coalition against Saddam Hussein. Better and less costly options are urgently needed.

Coercive pressure should be maintained on Iraq until it complies fully with U.N. weapons inspections. This is a legitimate objective for upholding the authority of the United Nations and constraining Iraq's military potential. We believe, however, that this can be done without punishing the innocent or threatening massive air attacks. A smarter and more humane strategy would be to ease sanctions on civilian goods, especially oil industry technologies, and, instead, focus on weapons and military-related technology through targeted sanctions. We call for an immediate restructuring of the U.N. sanctions by lifting general trade sanctions on civilian goods. Such action is warranted on purely humanitarian grounds as a response to the suffering of Iraqi innocents. An easing of sanctions would open the door to unrestricted imports of food and medicine, as well as the spare parts and manufactured goods necessary to rebuild Iraq's

shattered economy and industrial infrastructure. While motivated by humanitarian concerns, the easing of civilian trade sanctions could also be offered as an incentive to encourage Iraqi cooperation and in recognition of the progress achieved to date by weapons inspectors. Acknowledging this progress with a restructuring of sanctions would not significantly reduce U.N. leverage over Iraq, and it might serve as an inducement for compliance. If Baghdad still did not cooperate, the embargo on arms and military-related technology could be maintained and strengthened, while tighter controls could be imposed on the travels and financial assets of Iraqi leaders.

The military containment of Iraq is not the primary motivation for the Security Council's imposition of sanctions. Nonetheless, the current sanctions have been quite effective in this regard, preventing imports of weapons, spare parts and military equipment. The Iraqi armed forces suffer from "decaying, obsolete, or obsolescent major weapons," according to a report by a Middle East expert from the Center for Strategic and International Studies.[47] Sanctions have constrained Baghdad's ability to rebuild its war machine after the heavy losses sustained during the Gulf War.[48] As a result, Iraq's capacity for aggression and its ability to deliver chemical or biological weapons beyond its borders have been reduced. Focusing on a strictly enforced arms embargo would target U.N. pressure where it has been most successful and where it is most needed: limiting Iraq's potential for aggression.

Assuring the enforcement of a continuing arms embargo would require an expanded international interdiction effort and greater international cooperation. The active participation of other countries, especially Russia, would be crucial. As a recent report in the *Bulletin of Atomic Scientists* confirms, Russian firms have been implicated in attempts to export gyroscopes and other missile guidance components to Iraq.[49] Both Russia and France previously had extensive arms sales and trade connections with Iraq, and they are anxious to resume business and receive payment for past deliveries. To gain the cooperation of Russia and France, the United

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47 Anthony H. Cordesman, "The Iraq Crisis: Background Data," working paper of the Center for Strategic and International Studies (Washington, DC) p. 15.

48 Cordesman has estimated that Iraq would have to import nearly $48 billion in arms to sustain pre-Gulf War levels of military capability. See Barton Gellman, "Latest Drama Could Mean the Last Act for UNSCOM," *Washington Post*, 15 November 1998, p. A42.

49 Vladimir Orlov and William C. Potter, "The Mystery of the Sunken Gyros," *Bulletin of the Atomic Scientists*, 54, no. 6 (November/December 1998) pp. 34-39.

States and Great Britain could propose a compromise within the Security Council by accepting an easing of the oil embargo and civilian trade sanctions, in exchange for a strengthened arms embargo. This would allow Russia and France to begin normal trading with Iraq but would prevent a renewed Iraqi arms buying spree.

An effective means of enforcing a continuing arms and technology embargo might be to retain the financial-capture mechanism that is now being utilized as part of the oil-for-food program. Under the current system, revenues from permitted oil sales are deposited in a U.N. bank account, with the funds used only for U.N.-approved humanitarian purchases. Under the proposed new strategy, Iraqi oil revenues would continue to be deposited in the U.N. account, but the range of allowable imports would be expanded to include all civilian goods. To placate Moscow, a portion of the debt owed to Russia could be paid from the expanded oil revenues flowing into the U.N. account. To expand the enforcement effort, UNSCOM might be given the additional task of monitoring Iraq's borders and transit points to guarantee that nothing of military value enters the country.

We believe that our proposed restructuring of sanctions would satisfy all the requirements of just authority, just effectiveness and moral appropriateness. The authority of the United Nations would be upheld, and the goal of eliminating Iraq's weapons potential would be met through a continuing arms embargo. The sanctions instrument would be employed in a more appropriate and effective manner that would preserve its effectiveness for future enforcement missions. The Iraqi people might at last gain relief from the devastating consequences of comprehensive sanctions, and the United Nations and the United States would no longer bear responsibility for perpetuating the suffering of innocent civilians.

The Iraqi sanctions crisis has prompted a reevaluation of sanctions policy at the United Nations and a search for more humane and effective alternatives. U.N. officials have become increasingly skeptical of general trade sanctions. Many members of the Security Council have expressed misgivings about blanket sanctions and have called for more targeted measures that focus coercive pressure on elites rather than on vulnerable populations.[50] Interest is growing within the United Nations and among member

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[50] Comments by Security Council members, breakfast meeting at the Mission of Chile to the United Nations (New York: United Nations, 20 June 1997). One of the authors participated in the session.

governments in "smart sanctions strategies"[51] that utilize arms embargoes, financial sanctions, travel bans and other targeted measures as the primary means of applying pressure on those who violate international norms. These are measures that minimize unintended hardships on innocent civilians and third parties while maximizing pressure on decisionmaking elites. The use of these targeted measures offers the promise of a sanctions strategy that is at once more humane and more effective.

A great deal of interest has focused recently on financial sanctions and the freezing of overseas assets. The Swiss government has sponsored a major initiative to bring together U.N. officials, central banking officers, international legal experts and private banking executives to develop practical methods for enhancing the effectiveness of financial sanctions in general, and the enforcement of asset freezes in particular.[52] The available evidence suggests that the imposition of financial sanctions enhances the effectiveness of general trade sanctions.[53] When financial sanctions are aimed at seizing the assets and blocking the financial transactions of designated elites, they place pressure on those responsible for wrongdoing while creating fewer humanitarian hardships for the general population.

Arms embargoes are another form of smart sanctions. They deny targeted political leaders access to the means of repression and military aggression while avoiding harm to the general population. Arms embargoes have been imposed frequently by the Security Council, most recently against Sierra Leone, the UNITA faction in Angola, Rwanda, Liberia and Somalia. The enforcement of these arms embargoes, however, has been minimal or nonexistent. The Security Council has taken note of the need to strengthen their monitoring and enforcement, adopting a special resolution in September 1998 urging member states to take measures to ensure the effective implementation of arms embargoes.[54] We believe that our proposal for strengthening the arms embargo against Iraq could set a precedent for more

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51 See George A. Lopez and David Cortright, "Financial Sanctions: The Key to a 'Smart' Sanctions Strategy," *Die Friedens-Warte* (Berlin), 72, no. 4 (December 1997) pp. 327-336.

52 See the *Report of the Expert Seminar on Targeting U.N. Financial Sanctions, Interlaken, Switzerland, 17-19 March 1998* (New York: Swiss Observer Mission to the United Nations).

53 Jaleh Dashti-Gibson, Patricia Davis and Benjamin Radcliff, "On the Determinants of the Success of Economic Sanctions: An Empirical Analysis," *American Journal of Political Science*, 41, no. 2 (April 1997) pp. 607-617; and Hufbauer, Schott and Elliott, pp. 63ff.

54 Security Council Resolution 1196 (1998), U.N. Doc. S/RES/1196 (New York: United Nations, 16 September 1998).

concerted international cooperation to restrict the flow of arms to abusive regimes in the future.

Do economic sanctions contribute to a more just international order? This essay has sought to illustrate that on some levels the answer is in the affirmative, while on other levels it is clearly in the negative. On balance, our assessment is that the imposition of sanctions can serve the interests of justice. Sanctions are often necessary as a means of confronting regimes that violate international norms. They offer the U.N. community a means of responding to abusive behavior without having to resort to the use of military force. If sanctions are to serve the interests of justice, however, they must be properly designed and implemented and should be targeted against decisionmaking elites rather than innocent civilians. The evidence of the Iraq case does not inspire confidence that policymakers will use sanctions appropriately or be able to take necessary actions to guard against the worst effects of sanctions on the innocent. The hard lessons of the Iraq experience call for new strategies in the use of sanctions so that the pursuit of just goals never again results in pervasive injustice.

Postscript: After the December Bombings

The American and British bombing strikes of December 1998 have further eroded the justice of U.N. sanctions policy in Iraq. By using military force without provocation, Washington and London sacrificed whatever effectiveness or morality may have remained in the continued use of sanctions. By acting without the approval of the Security Council and against the wishes of key member states, the United States and Britain undermined the authority of the United Nations and the legitimacy of the U.N. mission in Iraq.

The resort to bombing indicated that Washington and London no longer have confidence in the ability of sanctions to pressure Iraq to comply with weapons inspections. They have rejected the option of using sanctions as an instrument of carrot-and-stick diplomacy to obtain a just resolution. Sanctions have now become secondary to the use of military force and have lost their claim to ethical purpose. They have become merely instruments of punishment that cause suffering for the vulnerable. U.S. officials seem to be aware of the moral difficulties of such a policy and have responded by offering to expand the oil-for-food program, but this ameliorative program cannot resolve the underlying immorality of continuing comprehensive trade sanctions.

In the aftermath of the bombing, divisions and uncertainty

about the U.N. mission in Iraq have increased. American officials oppose the completion of weapons inspections and argued instead for a policy of containment enforced through continued sanctions and the threat of military force. Members of the Russian Duma, angered by the unilateral U.S. and British military action, argued for unilaterally abrogating the sanctions, and resuming trade with Iraq. French policymakers spoke vaguely of a new mission for UNSCOM and an easing of trade sanctions. The bombing seems to have pushed U.N. policy further away from securing Iraqi compliance with weapons inspections, and toward a narrowly punitive mission directed exclusively by the United States and Great Britain. Such a policy cannot meet the standards of effectiveness, morality and authority. ♔